



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2023-0479; FRL-11425-03-R9]

Air Plan Approval; California; California Air Resources Board; Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the California Air Resources Board (CARB) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from vapor recovery systems of gasoline cargo tanks. We are approving a local rule that regulates this emission source under the Clean Air Act (CAA or the Act).

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2023-0479. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: La Kenya Evans-Hopper, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3245 or by email at evanshopper.lakenya@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. Proposed Action

On November 2, 2023 (88 FR 75246), the EPA proposed to approve the following rule into the California SIP.

Local Agency	Regulation or Provision	Regulation Title or Subject	Amended	Submitted
CARB	California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8, Article 1, Section 94014, except sub-sections (a) – (d)*	Certification of Vapor Recovery Systems for Cargo Tanks	07/12/23**	09/13/23
CARB	Certification Procedure CP-204	Certification Procedure for Vapor Recovery Systems of Cargo Tanks	07/12/23	09/13/23

* Letter dated September 21, 2023, from Michael Benjamin, Chief, Air Quality Planning and Science Division, to Martha Guzman, Regional Administrator, EPA Region IX. The letter states that Section 94014, sub-sections (a) – (d), that describe fee provisions, were inadvertently submitted to the EPA. Therefore, CARB withdrew Section 94014, sub-sections (a) – (d), from consideration for inclusion into the SIP. The EPA is not acting on Section 94014, sub-sections (a) – (d) in this rulemaking.

** The California Air Resources Board amended the introductory paragraph of 17 California Code of Regulations Section 94014 on July 12, 2023, and the changed was filed with Thomson Reuters Westlaw on August 29, 2023. Therefore, the amendment for Section 94014 will be recorded as July 12, 2023.

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our

evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received two comments that concerned issues outside the scope of this rulemaking. These comments are available for review in the docket for this action.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule into the California SIP. The July 12, 2023 versions of CARB's California Code of Regulations (CCR), Title 17, Division 3, Chapter 1, Subchapter 8, Article 1, Section 94014 and CP-204 Certification Procedure for Vapor Recovery Systems of Cargo Tanks (incorporated by reference) will replace the previously approved versions of this regulation in the SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of California Air Resources Board, California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8, Article 1, Section 94014 – Certification of Vapor Recovery Systems – Cargo Tanks, excluding sub-sections (a) through (d), amended on July 12, 2023, and Certification Procedure - CP-204 Certification Procedure for Vapor Recovery Systems of Cargo Tanks, amended on July 12, 2023 (incorporated by reference), both of which regulates VOCs from vapor recovery systems of gasoline cargo tanks. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other

area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT**

DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.

(See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: **February 5, 2024.**

Martha Guzman Aceves,
Regional Administrator,
Region IX.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52, chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. In § 52.220a, amend paragraph (c) by:

a. In Table 1, revising the entry “94014” and;

b. In Table 2 revising the entry for “Certification Procedure CP–204 Certification Procedure for Vapor Recovery Systems of Cargo Tanks”.

The revisions read as follows:

§52.220a Identification of plan—in part.

* * * * *

(c) * * *

Table 1 - EPA-Approved Statutes and State Regulations¹

State citation	Title/subject	State effective date	EPA approval date	Additional explanation

Title 17 (Public Health), Division 3 (Air Resources), Chapter 1 (Air Resources Board); Subchapter 8 (Compliance with Nonvehicular Emissions Standards); Article 1 (Vapor Recovery Systems in Gasoline Marketing Operations)				
94014	Certification of Vapor Recovery Systems for Cargo Tanks	7/12/2023	[INSERT DATE OF PUBLICATION], [INSERT Federal Register CITATION]	Submitted on September 13, 2023 as an attachment to a letter dated September 21, 2023.

¹ Table 1 lists EPA-approved California statutes and regulations incorporated by reference in the applicable SIP. Table 2 of paragraph (c) lists approved California test procedures, test methods and specifications that are cited in certain regulations listed in Table 1. Approved California statutes that are nonregulatory or quasi-regulatory are listed in paragraph (e).

Table 2—EPA-Approved California Test Procedures, Test Methods, and Specifications

Title/subject	State effective date	EPA approval date	Additional explanation

Certification Procedure CP–204 Certification Procedure for Vapor Recovery Systems of Cargo Tanks	7/12/2023	[INSERT DATE OF PUBLICATION], [INSERT Federal Register CITATION]	<u>Submitted on September 13, 2023 as an attachment to a letter dated September 21, 2023.</u>

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[FR Doc. 2024-02659 Filed: 2/8/2024 8:45 am; Publication Date: 2/9/2024]